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**FILED**

MAY - 8 2013

RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

UNITED STATES OF AMERICA,  
Plaintiff,  
v.  
STEVEN HIBBETT,  
Defendant.

No. CR 5:13-MJ-70368 HRL  
STIPULATION AND ~~PROPOSED~~  
ORDER CONTINUING APPEARANCE  
DATE AND EXCLUDING TIME FROM  
THE SPEEDY TRIAL ACT  
CALCULATION (18 U.S.C.  
§ 3161(h)(8)(A))

This matter is scheduled before the Court for an preliminary hearing or arraignment on May 9, 2013. On April 5, 2013, this Court issued a criminal complaint against the defendant related to two child pornography offenses under 18 U.S.C. § 2252(a). The United States and the defendant now request a continuance until June 6, 2013 in order to afford defense counsel additional time to effectively prepare and also to allow the parties an opportunity to discuss a potential pre-indictment resolution of the matter. The parties agree, and the Court finds and holds, as follows:

1. The preliminary hearing or arraignment is continued to June 6, 2013.

STIPULATION AND [PROPOSED] ORDER  
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2. Time should be excluded under Rule 5.1 from May 9, 2013 to June 6, 2013 in order to allow defense counsel additional time to effectively prepare and also to allow the parties an opportunity to discuss a potential pre-indictment resolution of the matter. The parties agree that the continuance is proper under Rule 5.1 of the Federal Rules of Criminal Procedure and 18 U.S.C. § 3060.

3. The time between May 9, 2013 to June 6, 2013 is excluded under the Speedy Trial Act. The parties agree that the failure to grant the requested continuance would unreasonably deny defense counsel reasonable time necessary for effective preparation, taking into account the exercise of due diligence. Finally, the parties agree that the ends of justice served by granting the requested continuance outweigh the best interest of the public and the defendant in a speedy trial and in the prompt disposition of criminal cases. 18 U.S.C. § 3161(h)(8)(A).

STIPULATED:

DATED: 5/8/13

/s/  
VARELL FULLER  
Assistant Federal Public Defender

DATED: 5/8/13

/s/  
JOSEPH FAZIOLI  
Assistant United States Attorney

IT IS SO ORDERED.

DATED: 5/8/13

HOWARD R. LLOYD  
UNITED STATES MAGISTRATE JUDGE